

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

PINNACLE PIZZA COMPANY, INC.,)	CIV. 04-4170-KES
)	
Plaintiff,)	
)	
vs.)	
)	ORDER GRANTING MOTION
LITTLE CAESAR ENTERPRISES, INC.,)	SEEKING REVIEW OF
a Michigan corporation;)	CLERK'S TAXATION OF COSTS
LC TRADEMARKS, INC.,)	
a Michigan corporation; and)	
ILITCH HOLDINGS INC.,)	
a Michigan corporation,)	
)	
Defendants.)	

Defendant, Little Caesar Enterprises, Inc., moves this court to review that portion of the Clerk's taxation of costs that declined to award \$5,027.20¹ in costs for copying documents that it produced to plaintiff, Pinnacle Pizza Company, Inc., in discovery. Plaintiff has not objected to this copying cost either initially before the clerk or here on review.

Defendants produced 19,134 pages of documents to plaintiff during discovery. Copies totaled 38,268 pages at 15 cents per page for a total copying cost of \$5,740.20. Plaintiff already paid \$713, leaving a balance of \$5,027.20.

Copying costs are taxable under 28 U.S.C. § 1920(4), which allows taxation of "fees for . . . copies of papers necessarily obtained for use in the

¹ In the original taxation of costs (Docket 224-3 at 3), there was a computation error in which \$5,740.20 minus \$713.00 equaled \$5,024.20 instead of \$5,027.20.

case.” The court finds that the copies were necessarily obtained for use in the case because they were made in response to plaintiff’s discovery requests. The Eighth Circuit has found that similar copying expenses were properly taxed as costs. See Concord Boat Corp. v. Brunswick Corp., 309 F.3d 494, 498 (8th Cir. 2002). Therefore, upon review, this court finds that photocopy expenses should have been taxed as costs. Accordingly, it is hereby

ORDERED that defendants’ motion for review (Docket 269) is granted. Defendants are entitled to an additional amount of \$5,027.20 as costs. The Clerk is directed to file an amended Taxation of Costs reflecting this additional award.

Dated April 22, 2009.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
CHIEF JUDGE